

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America,

Case No. 20-cr-0182 (WMW/DTS)

Plaintiff,

**ORDER**

v.

Deshawn Tyrone Braziel,

Defendant.

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Before the Court is Defendant Deshawn Tyrone Braziel's *pro se* "motion for stay pending appeal." (Dkt. 70.) Yet the relief Braziel requests is that the Court *deny* his motion for a stay and recommend to the Attorney General of the United States that Braziel remain incarcerated at the Sherburne County Jail.

Federal Rule of Criminal Procedure 38 provides that if a defendant "is released pending appeal, the court must stay a sentence of imprisonment." Fed. R. Crim. P. 38(b)(1). But if the Court denies the stay and "the defendant is not released pending appeal, the court may recommend to the Attorney General that the defendant be confined near the place of the trial or appeal for a period reasonably necessary to permit the defendant to assist in preparing the appeal." Fed. R. Crim. P. 38(b)(2). The purpose of Rule 38(b)(2) is to allow a criminal defendant to remain "near the place of trial or the place where the appeal is to be heard for the period reasonably necessary to permit the defendant to assist in the preparation of his appeal to the court of appeals" without being "required to serve dead time in a local jail in order to assist

in preparation of his appeal.” Fed. R. Crim. P. 38 advisory committee’s note to 1966 amendment.

Braziel does not advocate for a stay of his sentence of imprisonment. Instead, Braziel requests that the Court *deny* his motion for a stay and recommend to the Attorney General that Braziel remain incarcerated at Sherburne County Jail to “assist and/or write his appeal.” But Braziel does not explain why remaining incarcerated in Sherburne County Jail would assist with the preparation of his appeal. The Court observes that the United States Court of Appeals for the Eighth Circuit has appointed counsel to represent Braziel in the appeal. And the record does not reflect any opinion of Braziel’s counsel as to whether a transfer recommendation would assist in preparation of his appeal. If Braziel’s counsel believes that a recommendation to allow Braziel to remain incarcerated in Sherburne County Jail would assist in the preparation of Braziel’s appeal, counsel shall file a formal motion with legal authority supporting the request.<sup>1</sup> The Court denies without prejudice Braziel’s motion for stay and declines at this time to make a recommendation to the Attorney General that Braziel be confined near the place of the trial or appeal.

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that Defendant Tyrone Deshawn Braziel’s motion for stay, (Dkt. 70), is **DENIED WITHOUT PREJUDICE**.

Dated: April 11, 2022

s/Wilhelmina M. Wright  
Wilhelmina M. Wright  
United States District Judge

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<sup>1</sup> Moreover, a “district court has no obligation to entertain pro se motions filed by a represented party.” *United States v. Pate*, 754 F.3d 550, 553 (8th Cir. 2014) (internal quotation marks omitted).